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No. 84-1801

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

INUPIAT COMMUNITY OF THE ARCTIC SLOPE, *et al.*,
Petitioners,

v.

THE UNITED STATES OF AMERICA, *et al.*,
Respondents.

BRIEF IN OPPOSITION OF RESPONDENTS AMOCO PRODUCTION COMPANY, *ET AL.*

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QUESTIONS PRESENTED

1. Did the district court err in holding that the Inupiat Eskimos' claim of sovereignty over and exclusive rights to the high seas and outer continental shelf in the Beaufort and Chukchi Seas is foreclosed by the constitutional doctrine of federal paramountcy in maritime areas?

2. Did the court below err in holding that the Alaska Native Claims Settlement Act extinguished all the claims of Alaska Natives based on aboriginal title, including claims to the high seas and outer continental shelf?

3. Did the court below err in holding that the United States has fully satisfied its obligation to protect the subsistence culture of the Inupiats?

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Respondents.

BRIEF IN OPPOSITION OF RESPONDENTS AMOCO PRODUCTION COMPANY, *ET AL.*

STATEMENT OF THE CASE

This brief in opposition is submitted on behalf of respondents Amoco Production Company, *et al.*[1]

Petitioners seek unspecified damages and an order enjoining oil development in the Beaufort and Chukchi Seas on the theory that they possess aboriginal title to those ocean waters and to the underlying outer continental shelf (OCS). This suit is the latest in a series

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[1] The corporate respondents, and their affiliates as required by Rule 28.1, are listed in Appendix A.

of actions brought by the Arctic Slope Natives to block economic development in northern Alaska and the adjacent seas and to exact damages for the activities of non-Natives in those areas.

In 1971, however, Congress passed the Alaska Native Claims Settlement Act[2] (ANCSA) to resolve the claims of Alaska Natives and to compensate them for relinquishment of their aboriginal rights, "if any." 43 U.S.C. § 1603. Under that Act the Alaska Natives received more than 40 million acres and almost $1 billion. *See* §§ 1605, 1613. Despite this unprecedented settlement,[3] the Inupiats have since brought a battery of lawsuits seeking to derive still additional benefits from their claims of aboriginal title.

First the Inupiats (and the United States acting as trustee) filed suit claiming that oil development activities on the Arctic Slope prior to the Settlement Act were in trespass of Native rights. That suit focused primarily on land areas, but the Natives also claimed that the migratory and feeding patterns of sea mammals and fish in the Beaufort Sea had been disturbed. The Inupiats' trespass claims were held to have been extinguished by the Settlement Act. *United States* v. *Atlantic Richfield Co.*, 435 F. Supp 1009 (D. Alaska 1977), *aff'd*, 612 F.2d 1132 (9th Cir.), *cert. denied*, 449 U.S. 888 (1980).

The Inupiats then sued in the Court of Claims, seeking additional compensation for the extinguishment

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[2] 85 Stat. 688 (1971), *as amended*, 43 U.S.C. §§ 1601-26.

[3] No compensation whatever was constitutionally required. *E.g.*, Tee-Hit-Ton Indians v. United States, 348 U.S. 272, 279 (1955).

beyond that provided in the Settlement Act. Again the primary focus was on land claims, but damages were also sought for alleged interference with whaling and fishing. The court rejected the Inupiats' argument that the Settlement Act's extinguishment was an unconstitutional taking. *Inupiat Community of Arctic Slope* v. *United States,* 680 F.2d 122 (Ct. Cl.), *cert. denied,* 459 U.S. 969 (1982).

Further, and involving part of the same offshore area at issue here, the Natives sued to enjoin the 1979 Beaufort Sea joint federal-state lease sale.[4] It was claimed that the sale and consequent environmental damage to fishing and whaling areas would violate a federal trust responsibility, environmental statutes, and the Outer Continental Shelf Lands Act (OCSLA), 67 Stat. 462 (1953), *as amended,* 43 U.S.C. §§ 1331-1343. The Court of Appeals for the District of Columbia Circuit concluded that the United States had complied with all legal requirements in preparing and conducting that sale. *North Slope Borough* v. *Andrus,* 642 F.2d 589 (D.C. Cir. 1980). The court found that lease stipulations and statutory prescriptions ensured that "any future development in the Beaufort Sea will be highly studied and conscientious," that the Natives' interests had been carefully evaluated together with other public-interest considerations, and that de-

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[4] The 1979 joint sale included acreage claimed by both the United States and the State of Alaska. Respondents Bill Sheffield, Governor of Alaska, and Esther C. Wunnicke, Alaska Commissioner of Natural Resources, were named as defendants below because of Alaska's claim to the disputed acreage. That dispute is the subject of United States v. Alaska, No. 84 Original in this Court, currently pending before a Special Master.

velopment plans had been modified to avoid undue damage to Native interests. *Id.* at 606, 612.[5]

This suit, filed in January 1981, was the next step. It duplicates *Andrus, supra,* in that it too was brought in response to the 1979 Beaufort Sea lease sale. Petition at 6. The complaint alleges that the Natives of the Arctic Slope constitute a sovereign Indian tribe which once enjoyed broad aboriginal rights of sovereignty and ownership, not only over the Arctic Slope but also over wide areas of the Beaufort and Chukchi Seas. Although acknowledging that the Settlement Act extinguished the Natives' aboriginal claims "in Alaska," 43 U.S.C. § 1603, the Inupiats allege that the Act did not affect the claims in this suit because waters outside the three-mile belt are not in Alaska. Thus the Inupiats contend that they still enjoy exclusive rights and sovereignty over those large portions of the Arctic Ocean.

The sweep of the Inupiats' claim is illustrated by their prayer for relief. In addition to unspecified damages, the Inupiats seek a declaration that they possess ownership and sovereign jurisdiction over the Beaufort and Chukchi Seas beyond the three-mile limit to a distance of at least 65 miles. This claim includes the surface ice, water column, seabed, and all oil and gas contained in the subsoil. Further, the Inupiats seek an injunction prohibiting any defendant, including the United States itself, from interfering in any way with these alleged exclusive rights, and the court

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[5] The Alaska Supreme Court reached similar conclusions in a parallel challenge to the state portion of the 1979 joint sale. *See* Hammond v. North Slope Borough, 645 P.2d 750, 759-761, 763 (Alaska 1982).

is asked to order defendants and their agents to remove themselves from the Beaufort and Chukchi Seas and to stay out of that area within the "sovereign jurisdiction of the Inupiat people." Compl. ¶¶ 44-51.

Respondents moved for judgment on the pleadings. After extensive briefing and oral argument, the district court issued an opinion and entered judgment for respondents. 548 F. Supp. 182 (D. Alaska 1982).

The district court held that the Inupiats' ownership and sovereignty claims were foreclosed by a line of this Court's decisions beginning with *United States* v. *California,* 332 U.S. 19 (1947), which establish as a matter of constitutional law that the United States has paramount rights over ocean areas lying seaward of the low-water mark. This Court had made clear that federal supremacy over the adjacent seas is an essential element of national sovereignty and that competing claims must fail. The district court observed that the dependent status of Indian tribes, *see United States* v. *Wheeler,* 435 U.S. 313 (1978), made it particularly inappropriate for a Native group to claim sovereign rights in offshore areas contrary to the rights of the United States under the paramountcy cases. 548 F. Supp. at 187.

The district court also observed that the principle of exclusive federal sovereignty over offshore areas is not an abstract legal doctrine. Congress has legislated extensively on the subject of the adjacent oceans and the continental shelf. Detailed environmental statutes, including several dealing specifically with Native subsistence use, have been enacted and implemented. Also, federal legislation divides authority over the continental shelf between the state and federal governments,

reserving for the federal government complete and exclusive power over areas outside the three-mile limit and providing a detailed program for oil and gas development of the OCS. Thus, the district court applied the settled law of this Court in holding that petitioners' sweeping claims of common-law rights must give way to the "dominant interests of the national sovereign" in ocean waters and the OCS. *Id.* at 188.

The court of appeals unanimously affirmed. 746 F.2d 570 (9th Cir. 1984). It adopted respondents' argument that ANCSA extinguished any aboriginal rights petitioners may have had and thus did not consider the alternative defense of federal paramountcy. The court provided the reasoning for this holding in the companion case of *People of Village of Gambell* v. *Clark,* 746 F.2d 572 (9th Cir. 1984).

The court of appeals found that various provisions of ANCSA and its legislative history clearly demonstrate Congress' intent to extinguish petitioners' claims. *Id.* at 574-79. In reaching this conclusion the court focused on the language of section 4(b) of the Act, 43 U.S.C. § 1603(b)—one of three overlapping extinguishment provisions in § 1603. In addition, the court's result rested upon "the mandate from Congress to construe the [extinguishment] provision broadly to extinguish all aboriginal claims, and the legislative history indicating a specific purpose to extinguish aborginal hunting and fishing rights, including those in coastal waters, and specifically in outer-continental-shelf waters." *Village of Gambell,* 746 F.2d at 579.

Even aside from the court's reliance upon section 4(b), the court's interpretation of ANCSA was clearly

compelled by the language of section 4(c) of the Act, 43 U.S.C. § 1603(c): "All claims . . . that are based on aboriginal right, title, use, or occupancy of land or water areas in Alaska . . . are hereby extinguished." Petitioners' claims to own the offshore oceans are encompassed by this language, for those claims are based on claims to lands in Alaska. Thus, the court of appeals was correct in concluding that petitioners' claims were extinguished by ANCSA.

The court of appeals also rejected petitioners' claim founded on international law. On appeal, petitioners for the first time asserted that certain international agreements gave them a federal common-law right to control ocean areas they use for subsistence purposes. The court of appeals held that the numerous federal statutes designed to protect the subsistence culture of the Alaska Natives fully satisfied any applicable international-law obligations. 746 F.2d at 571-72.

REASONS FOR DENYING THE WRIT

A. The District Court Correctly Applied the Settled Constitutional Doctrine of Federal Paramountcy over Offshore Areas.

The Court has repeatedly held that under the Constitution the federal government has the exclusive authority to govern and to develop the OCS. Moreover, Congress has implemented that authority in a manner leaving no doubt that the Inupiats' claims in this suit are wholly inconsistent with federal exercise of those sovereign powers. Similarly, it is well established that the aboriginal right of occupancy does not extend to offshore areas. Thus, the district court's holding that federal paramountcy over the high seas forecloses

petitioners' aboriginal-title claims to Arctic seas raises no federal questions that the Court has not already settled.

The Court first addressed the issue of offshore rights in a dispute between the United States and California over the right to control the exploitation of mineral resources lying within the three-mile belt of territorial waters. *California,* 332 U.S. at 29. The Court held that "the Federal Government rather than the state has paramount rights in and power over that belt, an incident to which is full dominion over the resources of the soil under the water area, including oil." *Id.* at 38-39. Rejecting claims by the state based on its equal footing with the original thirteen states that had succeeded to rights of the English crown, and sharply limiting traditional doctrine that states owned the beds of navigable waters within their boundaries, the Court held that such domestic precedents and concerns cease at the ocean's edge: "protection and control of [the three-mile belt] has been and is a function of national external sovereignty." *Id.* at 34. Thus the role of the United States as external sovereign, and particularly its responsibilities for foreign affairs and national defense, were held to entail both exclusive political power and the exclusive right to dispose of natural resources as soon as the ocean's edge is reached.[6]

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[6] The Court held, alternatively, that as an historical matter it had not been established that international law permitted sovereignty and ownership of offshore waters until quite recently. 332 U.S. at 31-33. The district court below correctly relied on this holding as an alternative ground for rejecting petitioners' claims. 548 F. Supp. at 187.

Three years later the Court extended the *California* doctrine to the OCS. *United States* v. *Louisiana,* 339 U.S. 699 (1950). The Court's reasoning is equally compelling in the present case:

> "If, as we held in California's case, the three-mile belt is in the domain of the Nation rather than that of the separate States, it follows *a fortiori* that the ocean beyond that limit also is. The ocean seaward of the marginal belt is perhaps even more directly related to the national defense, the conduct of foreign affairs, and world commerce than is the marginal sea. Certainly it is not less so." *Id.* at 705.

In *United States* v. *Texas,* 339 U.S. 707 (1950), Texas argued that its position was distinguishable because, prior to statehood, it had been an independent republic with full sovereignty over the adjacent OCS. While accepting the premise of this argument, the Court nevertheless held that the very acquisition of statehood served to surrender Texas' external sovereignty and thereby to terminate its claims to the seabed. *Id.* at 718.[7]

California, Louisiana, and *Texas* thus established that the federal government possesses exclusive authority under the Constitution to whatever rights

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[7] The Court also rejected Texas' argument that federal paramountcy could coexist with a subordinate entity's property rights and need not entail ownership of mineral resources. *Id.* at 719. Thus, the district court below correctly held that all of petitioners' alleged aboriginal property rights had to fall unless the Inupiats proved a right of sovereignty superior to the federal government's. 548 F. Supp. at 186 n.3.

could be exercised over offshore areas. *United States* v. *Maine,* 420 U.S. 515 (1975), cemented this rule. There the Court rejected a claim by the Atlantic states based on their sovereignty and ownership of adjacent waters during the colonial period. Again the Court held that whatever the states may have owned was extinguished, as a matter of constitutional law, by the supervening external sovereignty of the federal government:

> "[T]his Court's cases . . . hold that as a matter of 'purely legal principle . . . the Constitution . . . allotted to the federal government jurisdiction over foreign commerce, foreign affairs and national defense' and that 'it necessarily follows, as a matter of constitutional law, that as attributes of these external sovereign powers the federal government has paramount rights in the marginal sea.' . . .
>
> "*United States* v. *Texas* unmistakably declares this constitutional proposition." 420 U.S. at 522-23.

The Court declined "to re-examine the constitutional underpinnings of the *California* case and of those cases which followed and explicated the rule that paramount rights to the offshore seabed inhere in the Federal Government as an incident of national sovereignty." *Id.* at 524.

Because of the Court's unshakable adherence to the constitutional principle of federal paramountcy in offshore areas, the district court below correctly held that petitioners' competing claims were untenable as a matter of law. Petitioners' claims are essentially iden-

tical to those advanced by the states and repeatedly rejected by the Court over the past forty years.[8]

In the *California* line of decisions, the Court refused to extend to offshore areas the established rule of state sovereignty over submerged lands under inland navigable waters, because of the federal government's unique constitutional authority over offshore areas. *California,* 332 U.S. at 36. Similarly, the Inupiats seek to transplant the doctrine of aboriginal title from onshore lands to offshore areas, "a matter of national concern." *Id.* California's right to submerged lands stopped at the seashore, and so must the Inupiats'.

Equally unavailing is the Inupiats' argument that the extension of federal sovereignty to new areas is subject to prior aboriginal claims. The argument is essentially that made by Texas and the Atlantic states: that their rights to the OCS predated their association with the United States and thus survived statehood. Yet in *Texas* and *Maine* the Court ruled unequivocally that such rights were extinguished when those states joined the Union, by virtue of paramount federal sovereignty over ocean areas. The Court held that, "as an incident to the transfer of that [external] sovereignty" at the time of statehood, "any claim that [a coastal state] may have had to the marginal sea was

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[8] In fact, the only real difference is that the Inupiats' claims have a lower constitutional status than do those of the states. *Compare* Montana v. United States, 450 U.S. 544, 563-64 (1981) (by their incorporation into the United States, Indian tribes underwent an "implicit divestiture of sovereignty," such that they lost authority over relations with non-members of the tribe except so far as affirmatively authorized by Congress) *with* U.S. Const. Amend. X.

relinquished to the United States." *Texas,* 339 U.S. at 718. Just as the states lost their external sovereignty, so did Indian tribes when they became domestic entities under United States law. The federal government assumed any prior jurisdiction "over foreign commerce, foreign affairs and national defense," and "as attributes of these external sovereign powers the federal government has paramount rights in the marginal sea." *See Maine,* 420 U.S. at 522-23 (quoting the Special Master).

Petitioners also attempt to avoid the federal paramountcy doctrine by invoking various congressional enactments which recognize, in various contexts, preexisting rights which individuals may have had to offshore areas. Petition at 24-26. No doubt Congress may, by statute, grant certain rights to offshore areas or preserve prior rights at the time when an offshore area is brought under United States jurisdiction. But no such grant or reservation of rights, even as to territorial waters, was included in the Treaty of Cession of Alaska, 15 Stat. 539 (1867), and the Inupiats thus cannot claim that any rights in their favor were recognized or preserved.[9]

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[9] The Inupiats also cite, Petition at 25 n.7, the savings clause contained both in the 1953 Submerged Lands Act and in OCSLA. 43 U.S.C. §§ 1315, 1342. But those statutes substantially post-dated Alaska's becoming a United States territory, the event which terminated any Inupiat claims to the offshore by virtue of the Constitution itself. Further, the savings provisions would be inapplicable in any event. It is clear from the legislative history that the savings clause was added to the Submerged Lands Act specifically to protect the rights "if any" of persons with pending lease claims under the Mineral Leasing Act, *see* S. Rep. No. 133, 83d Cong., 1st Sess. 17,

As the district court held, the only reasonable interpretation of the detailed congressional attention given offshore areas is that it represents proof of the federal government's paramount constitutional authority, not proof against it. 548 F. Supp. at 187; *see also Maine,* 420 U.S. at 524. For example, when enacting OCSLA in 1953 Congress explicitly sought " 'to assert the exclusive jurisdiction and control of the Federal Government of the United States over the seabed and subsoil of the outer Continental Shelf, and to provide for the development of its vast mineral resources.' S. Rep. No. 411, 83d Cong., 1st Sess. 2 (1953)." *See Gulf Offshore Co.* v. *Mobil Oil Corp.,* 453 U.S. 473, 479 n.7 (1981). Congress declared the OCS to be subject to the exclusive jurisdiction of the United States and to the power of disposition "as provided in this Act," § 3(a), 67 Stat. 462 (1953), current version at 43 U.S.C. § 1332(a), and made it clear that development of the OCS was to occur exclusively under the terms of that statute.[10] Any supposed intent to recognize Native occupancy rights is inconsistent with this

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21 (1953); 99 Cong. Rec. 2701-02 (1953) (Committee chairman and floor manager's explanation), and had no application to aboriginal claims. The identical provision was then included in OCSLA for the sake of uniformity, at the request of the Justice Department. *See* S. Rep. No. 411, 83d Cong., 1st Sess. 31 (1953) (letter from Assistant Attorney General J. Lee Rankin).

[10] OCSLA §§ 2(c), 3(a), 4(a), current versions at 43 U.S.C. §§ 1331(c), 1332(1), 1333(a). Leasing procedures were established, and the laws of the United States were extended to the shelf's seabed and to development structures, subject to the proviso that leases may be issued "only under the provisions of this [Act]." § 4(a)(1), current version at 43 U.S.C. § 1333(a)(1).

fundamental assertion of exclusive federal administration and control.[11]

In addition to OCSLA, Congress has enacted other statutes concerning the water areas adjacent to the United States. Some accord Native groups special rights; others do not. In none of them is there any

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[11] Native interests have, of course, not been ignored. In 1978, when Congress extensively revised the leasing and exploration provisions of the 1953 statute, Outer Continental Shelf Lands Act Amendments of 1978, 92 Stat. 629, it required careful consideration of environmental consequences. *See* 43 U.S.C. §§ 1332, 1334-35, 1801-02. The National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, and a panoply of other environmental statutes and regulations apply to OCS activities. Given the Native interest in subsistence hunting, the United States carefully structured the 1979 Beaufort Sea lease sale to take account of that interest, and the government remains under a continuing obligation to regulate development of the Arctic OCS with a mind to Native, as well as other, considerations. *See North Slope Borough* v. *Andrus*, 642 F.2d 589 (D.C. Cir. 1980). But Congress did not intend the concerns of environmental protection and Native culture to be "transformed into a veto for any one particular set of interests which would halt the Secretary's delegated decisionmaking." *Id.* at 613.

The court of appeals held in *Village of Gambell, supra*, that Congress had provided Native subsistence activity on the OCS with still-further protection through section 810 of the Alaska National Interest Lands Conservation Act, 94 Stat. 2472 (1980), 16 U.S.C. § 3120(a). Section 810 provides that, before permitting any use, occupancy or disposition of public lands, a federal agency must evaluate the "effect of such [action] on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy or disposition of public lands needed for subsistence purposes." If a significant restriction of subsistence uses would result, the agency must give notice, hold hearings, and make statutory findings before proceeding with the proposed action.

indication that common-law doctrines regarding Native use and occupancy of land areas were to be made applicable to the high seas or to the OCS. In the Fishery Conservation and Management Act of 1976,[12] for example, Congress provided for fishery conservation zones extending over the OCS up to 200 miles from United States shores. Only Native *treaty* fishing rights were accorded special recognition. 16 U.S.C. § 1853(a)(2). The Marine Mammal Protection Act provides an exemption from its prohibitions for Native subsistence whaling in the Arctic Ocean but confers no other rights. 16 U.S.C. § 1371(b). The district court correctly concluded that "[t]he necessary implication is that Congress intended to permit use by Alaska natives of subsistence rights only to the extent authorized." 548 F. Supp. at 187.

Finally, petitioners assert that the district court's "holding represented an extraordinary departure from principles of Federal Indian law" developed by this court over two centuries. This position is unsupportable. Petitioners were unable to find a single decision of this Court, or any federal court, recognizing an aboriginal "right of occupancy" over ocean waters.[13]

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[12] 90 Stat. 331, 16 U.S.C. §§ 1801-82.

[13] The three decisions petitioners cite, Petition at 21 n.6, did not recognize any such aboriginal right. Alaska Pacific Fisheries v. United States, 248 U.S. 78 (1918), and Metlakatla Indian Community v. Egan, 369 U.S. 45 (1962), both involved a group of Indians who had moved to the area of dispute in 1887 and who asserted statutory, not aboriginal, rights. Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n, 443 U.S. 658, 662 (1979), concerned "the character of [an Indian] treaty right to take fish."

Petitioners' alleged authorities, Petition at 21 n.5, for the prop-

Cf. County of Oneida, N.Y. v. *Oneida Indian Nation of New York State, (Oneida II),* 105 S. Ct. 1245, 1251-52 (1985) (noting that Indian-law principles entitle natives to exclusive possession of "lands" inhabited from time immemorial).

There is no authority for petitioners' federal common-law claim[14] because aboriginal title cannot by its nature reach the high seas.[15] Navigable waters are not subject to private ownership. *United States* v. *Chandler-Dunbar Water Power Co.,* 229 U.S. 53 (1913).[16]

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osition that Native occupancy rights extend to inland waters are also inapposite. For example, Oneida Tribe of Indians of Wisconsin v. United States, 165 Ct. Cl. 487, *cert. denied,* 379 U.S. 946 (1964), concerned Indian timber rights and not Indian rights over inland waters.

[14] Claims of aboriginal title fall within "the exclusive province of federal law." *Oneida II,* 105 S. Ct. at 1251 (citation omitted).

[15] Interior Solicitor Margold's opinion to the contrary in Aboriginal Fishing Rights in Alaska, 57 Interior Dec. 461 (1941), never binding, has long since been overruled by the paramountcy cases. Further, the Solicitor's opinion rested on the proposition that "extinguishment of Indian possessory rights, without the consent of or compensation to the Indians affected, is forbidden by the Fifth Amendment," 57 Interior Dec. at 468, which is manifestly incorrect. *E.g.,* Tee-Hit-Ton Indians v. United States, 348 U.S. 272 (1955).

[16] The rule was not disturbed in Kaiser Aetna v. United States, 444 U.S. 164 (1979). The Court held that, although a privately dredged fishpond had become "navigable" for purposes of congressional regulatory powers, the federal government could not create a public right of access without paying just compensation to its owners. The Court distinguished prior precedent by noting that the pond was "not the sort of 'great navigable stream' that

Aboriginal-title claims to lands under navigable waters are also precluded. *Montana* v. *United States*, 450 U.S. 544, 550-51 (1981); *United States* v. *Holt State Bank*, 270 U.S. 49 (1926). Since petitioners concede that aboriginal rights do not arise from treaties or statutes, their discussion of such sources cannot conceal the baselessness of their aboriginal-rights claims. It is petitioners' position, therefore, and not the district court's holding that radically departs from all Indian law precedents.

B. Petitioners' Aboriginal-Title Claims Were Extinguished by ANCSA.

Since, as demonstrated, no aboriginal claims to the high seas and OCS can succeed because of the federal-paramountcy doctrine, no showing that such claims have been extinguished by Congress is necessary to support the result below. However, the court of appeals' holding that any aboriginal claims of petitioners were extinguished by ANCSA is compelled by the language and legislative history of the Act. Accord-

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this Court has previously recognized as being '[incapable] of private ownership.' " *Id.* at 179.

The early Hawaii cases cited in the Petition at 22—Carter v. Hawaii, 200 U.S. 255 (1906), and Damon v. Hawaii, 194 U.S. 154 (1904)—lead to no different conclusions. In the first place, the right to fish—not exclusive possession—was at stake. Moreover, the basis for the asserted right was statutory, not aboriginal. Under the laws of the Republic of Hawaii, the right to fish in navigable waters could vest in private parties, and Congress made United States rights expressly subject to vested rights under Hawaiian law. *Carter* and *Damon* "are of no help" to a plaintiff alleging "nothing but immemorial use as the basis of its title." Tee-Hit-Ton Indians v. United States, 132 F. Supp. 695, 697 (Ct. Cl. 1955).

ingly, the questions of statutory construction presented by this case do not warrant this Court's attention.

The court of appeals recognized that this Court's established canons of construction regarding Indian matters controlled its interpretation of ANCSA. *Village of Gambell,* 746 F.2d at 574. The Ninth Circuit's decision, therefore, raises no challenge to the rule that "congressional intent to extinguish Indian title must be 'plain and unambiguous.'" *Oneida II,* 105 S. Ct. at 1258 (quoting *United States* v. *Santa Fe Pacific Railroad Co.,* 314 U.S. 339, 346 (1941)).

This standard might ordinarily present some difficulty for a defendant where the aboriginal claim at issue is so implausible and unprecedented that it must honestly be doubted that Congress had ever conceived of the claim or, if it had, thought it worthy of legislative attention. Still, in the present case the implausibility of the Inupiats' claims to the Arctic Ocean is no obstacle. This is because Congress has stated in "plain and unambiguous" terms that the aboriginal claims of Alaska's Natives should no longer be a source of endless and divisive litigation.

The starting point in this case, as in every case involving statutory construction, is the language of the statute itself. *See, e.g., Blum* v. *Stenson,* 104 S. Ct. 1541, 1548 (1984). As the court of appeals observed, the goal of avoiding litigation by extinguishing all Alaska Native aboriginal titles was made explicit in the Act's Declaration of Policy: "[T]here is an immediate need for a fair and just settlement of *all* claims by Natives . . . based on aboriginal land claims" and "the settlement should be accomplished rapidly,

with certainty, [and] . . . *without litigation* . . .." 43 U.S.C. § 1601(a), (b) (emphasis added), quoted in 746 F.2d at 575.

The Inupiats, nevertheless, claim that ANCSA did not affect Native claims to areas outside the three-mile seaward boundary of Alaska, pointing out that Congress used the term "in Alaska" in the extinguishment provisions of the Settlement Act, 43 U.S.C. § 1603. This argument might be persuasive if, as petitioners assert, ANCSA's extinguishment provisions applied only "'in Alaska,' and nowhere else." Petition at 29-30. But Congress did not write the statute so narrowly.

Although section 4(b) expressly addresses only claims "in Alaska," the broader language of section 4(c) clearly reaches the aboriginal claims asserted in this suit. Section 4(c) extinguishes "[a]ll claims . . . that are *based on* claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska . . .." 43 U.S.C. § 1603(c) (emphasis added). Thus the section extinguished claims based on aboriginal-title claims in Alaska "in the sense that the past or present existence of aboriginal title is an element of the claims." *United States* v. *Atlantic Richfield Co., supra,* 612 F.2d at 1135. In the instant case, whatever claims the Inupiats have to the OCS and water areas adjacent to Alaska are "based on" claims of use and occupancy of the Alaska shores and coastal waters within Alaska, and were therefore extinguished by section 4(c).

Petitioners explicitly concede that the "factual basis" for their claim rests on the allegations that they "treat the [sea] ice as a mere extension of the

land" and "recognizes no distinctions between the two." Petition at 5-6. The Inupiats' complaint also forthrightly admits that the claim to offshore areas is "based on" the Natives' occupation of North Slope land. For example, paragraph 8 of the complaint alleges continuous Native occupation of "[t]he Arctic Slope of Alaska and *appurtenant* areas of the Beaufort and Chukchi Seas" since time immemorial (emphasis added).[17] The complaint further alleges that the Inupiats' "range broadly on the Arctic slope, including the marine areas," in pursuit of fish and game. Compl. § 8. The Natives' claims deriving from alleged activity on land in Alaska and in the three-mile coastal belt are essential elements of the Inupiats' claims of dominion and ownership of the areas outside the three-mile belt.

This point goes beyond petitioners' admissions. Except in the case of a sovereign grant (not applicable here), rights in or to water areas cannot be acquired in the absence of rights to the adjacent land. Any water rights are "based on" land rights, in the sense that the water claims "require as an essential element of proof a showing of aboriginal use and occupancy at some time in the past" of the adjacent land. *United States* v. *Atlantic Richfield Co., supra,* 435 F. Supp. at 1025-26. The obviousness of the point is brought home by reading through the Inupiats' complaint and striking out any reference to use or occupancy of water or land areas "in Alaska." Stripped of its reli-

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[17] Before this Court petitioners similarly allege continuous "use of the North Slope of Alaska and adjacent marine areas." Petition at 4.

ance on Alaska aboriginal claims, the complaint is preposterous on its face.[18]

The broad language of section 4(c) of ANCSA embraces land claims in Alaska *and* all other claims, without geographical limitation, that are based on those land claims. Congress thus plainly and unambiguously stated its intention that all claims based on aboriginal title, including claims to appurtenant maritime areas, be extinguished.

The legislative history of ANCSA confirms the soundness of the result below. The Inupiats' claim challenges the fundamental purpose of the Settlement Act: to resolve all claims of Alaska Natives without litigation. *See* 43 U.S.C. § 1601(a)(b) (quoted above). As the court of appeals observed, "Congress repeatedly enjoined those who were to implement the statute to interpret the extinguishment section broadly to accomplish a complete and final settlement of aboriginal

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[18] The relationship between land claims and claims to the OCS has even become engrained in international law. The Convention on the Continental Shelf provides: "The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources." Convention on the Continental Shelf, Art. 2(1), *done* April 29, 1958, 15 U.S.T. 471, 473, T.I.A.S. No. 5578.

In the *North Sea Continental Shelf Cases,* the International Court of Justice explained:

> "What confers the *ipso jure* title which international law attributes to the coastal State in respect of its continental shelf, is the fact that the submarine areas concerned may be deemed to be actually part of the territory over which the coastal State already has dominion, — in the sense that, although covered with water, they are a prolongation or continuation of that territory, an extension of it under the sea." 1969 I.C.J. 3, 31.

claims and avoid further litigation of such claims." 746 F.2d at 575 (footnote omitted). Congress' intent[19] to extinguish every conceivable claim that might be asserted by the Native people was clearly stated:

> "Section 4 extinguishes all aboriginal titles in Alaska, and all claims based thereon",

and

> "The section extinguishing aboriginal titles and claims based on aboriginal title is intended to be applied broadly, and to bar any further litigation based on such claims of title."

H. R. Rep. No. 523, 92nd Cong., 1st Sess. 6, 8, *reprinted in* 1971 U.S. Code Cong. & Ad. News 2196, 2198; *see also* S. Rep. No. 581, 92nd Cong., 1st Sess. 40 (1971) (Conference Report) ("It is the clear and direct intent of the conference committee to extinguish *all* aboriginal claims and *all* aboriginal land titles . . . .") (emphasis in original).

This case presents striking similarities to *Oregon Dept. of Fish & Wildlife* v. *Klamath Indian Tribe,* 53 U.S.L.W. 5106, 5111 (U.S. July 2, 1985), where an Indian treaty "contained a broad and unequivocal conveyance of the Tribe's title to the land and a surrender of *'all* their claim, *right,* title, and interest *in and to'*

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[19] Contrary to petitioners' assertions, Petition at 51-52, the Natives were aware that Congress intended the Settlement Act to settle all their claims based on aboriginal title. See Alaska Native Land Claims: Hearings on S. 1830 Before the Senate Comm. on Interior and Insular Affairs, 91st Cong., 1st Sess. 300-01 (1969) (statement of former Justice Arthur Goldberg, attorney for the Alaska Federation of Natives) ("The position that the Natives have taken is that they are prepared for an extinguishment of anything that is based upon aboriginal title.").

that portion of the reservation." The Court held that, "in the absence of any language reserving any specific rights in the ceded lands, the normal construction of the words used . . . unquestionably would encompass any special right to use the ceded lands for hunting and fishing." *Id.* at 5111. "Thus, even though 'legal ambiguities are resolved to the benefit of the Indians,' . . . courts cannot ignore plain language that, viewed in historical context and given a 'fair appraisal,' . . . clearly runs counter to a Tribe's later claims." *Id.* at 5112.

This case does not present any substantial question of statutory interpretation. The language of ANCSA is clear, and the legislative history of the Settlement Act confirms the plain and unambiguous meaning of the extinguishment provisions.

C. The Court of Appeals Correctly Held That the United States Has Fully Satisfied Its Obligation To Protect the Inupiats' Subsistence Culture.

Contrary to petitioners' assertions, Petition at 13, 53-54, the court of appeals did not hold that the United States has no substantive obligation to protect the Inupiats' subsistence culture. The Inupiats' alleged international-law right to control the ocean areas they use for subsistence purposes was rejected on narrower grounds. As the court of appeals observed, petitioners failed to produce any authority "that could be interpreted as imposing upon the United States a greater obligation to protect the subsistence culture of the Natives than that imposed . . . by federal domestic law." 746 F.2d at 572. Because the United States was held to have fully satisfied all such domestic obligations in a previous lawsuit

brought on behalf of the Inupiats, *Andrus, supra,* 642 F.2d at 611-13, the court of appeals correctly dismissed petitioners' effort to relitigate those issues. 746 F.2d at 572.

Alternatively, the court of appeals held that petitioners' claim must fail even if the international agreement on which petitioners rely[20] did contain greater obligations than domestic federal law. That agreement has not been ratified by the United States, and petitioners' claim that all its provisions are now part of customary international law is without foundation. Petitioners failed to make "any showing of a universal recognition of such a greater obligation that would be necessary to establish a claim based on the law of nations." 746 F.2d at 572.[21]

In fact, the only principle of international law applicable to this case flatly prohibit the Inupiats' claim of sovereignty and ownership. Treaties ratified by the United States provide that no nation or person may exercise exclusive rights in the water of the high seas.[22] The court of appeals' holding is both consistent with and compelled by the law of nations and thus presents no important questions of federal law requiring this Court's attention.

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[20] International Covenant on Civil and Political Rights, G.A. Res. 2200, 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966).

[21] Filartiga v. Pena-Irala, 630 F.2d 876, 881-84 (2d Cir. 1980), relied on by petitioners, does not hold or even suggest that any part of the Covenant besides the section proscribing torture reflects the law of nations binding on the United States.

[22] *See, e.g.,* Convention on the High Seas, Art. 2, *done* Apr. 29, 1958, 13 U.S.T. 2312, T.I.A.S. No. 5200.

CONCLUSION

Petitioners have failed to demonstrate that this case presents any substantial questions of federal law of sufficient importance to warrant this Court's consideration. The petition for a writ of certiorari should, therefore, be denied.

Respectfully submitted,

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et al.

**Counsel of Record*

August 1985

APPENDIX

APPENDIX A

List Required by Rule 28.1

Amoco Production Company

Amoco Corporation
Amoco Company
Amoco Canada Petroleum Company, Ltd.
Amoco Credit Corporation
Amoco Oil Holdings S.A.
Analog Devices Inc.
Cetus Corporation
Cyprus Mines Corporation

Atlantic Richfield Company

ABE Beverage, Inc.
Agro Internacional, S. de R. L. de C.V.
Almeg Extrusion Company, Inc.
Alpart Farms (Jamaica), Ltd.
Alumina Contractors Ltd.
Alumina Partners of Jamaica
Alyeska Pipeline Service Company
Ambler Mining Company
Anaconda Exploration New Zealand Limited
Anaflex, S.A. de C.V.
Anamax Mining Company
Anamet, S.A. de C.V.
ARCO Australia Coal Pty., Ltd.
ARCO Chemical IBERICA, S.A.
ARCO Oil Limited
ARCO Solar Nigeria, Ltd.
Arilan, S.A. de C.V.
Arpet Petroleum Limited
A/S Skaland Graftiverk
Atlantic Richfield Oil Limited

Atlantic Richfield Company (continued)

Atlantic Richfield de Mexico, S.A. de C.V.
Aughinish Alumina, Ltd.
Aughinish Estates Limited
Aughinish Finance, Limited
Aughinish Property (Nominees), Limited
Badger Pipeline Company
Bingham Development Company
Black Lake Pipe Line Company
Blair Athol Coal Pty., Limited
British American Metals Company, Limited
Candel International, Limited
Caribou-Chaleur Bay Mines Ltd.
Caribou-Smith Mines Ltd.
Chile Copper Company
Cobre de Hercules, S.A.
Cobre de Mexico, S.A.
Cobrecel, S.A. de C.V.
Colonial Pipeline Company
Compania Minera Dos Republicas S.A. de C.V.
Compania Minera Kappa, S.A.
Compania Minera Penacobre, S.A.
Compania de Petroleo Ganso Azul, Ltda.
Cook Inlet Pipe Line Company
Cupro San Luis, S.A. de C.V.
Curragh Coal Sales Co. Pty. Ltd.
Delaware Bay Transportation Company
Dexter de Mexico, S.A.
Dixie Pipeline Company
East Texas Salt Water Disposal Co.
85819 Canada Limited
Eisenhower Mining Company
Empresa de Comercio Exterior Mexicano, S.A. de C.V.

Atlantic Richfield Company (continued)

Ericsson
Flower Street Limited
Gravity Adjustment, Inc.
Greater Pacific Limited
Griffith-Consumers Company
Hardy Oil Company
Imperial Eastman de Mexico, S.A.
Impulsora De Cobre, S.A. de C.V.
Indelta, S.A. de C.V.
Industrias Tecnos, S.A. de C.V.
Iricon Agency Ltd.
Jamaica Alumina Security Company Ltd.
Kenai Pipe Line Company
Kronos, Computacion y Teleproceso, S.A. de C.V.
Kuparuk Transportation Capital Corporation
Kuparuk Transportation Company
Las Quintas Serenas Water Company
Lavan Petroleum Co.
Lingobronce, S.A.
Manufacturas de Cintas Metalicas, S.A.
Manufacurera Mexicana De Partes Para Automoviles, S.A. de C.V.
Mayflower Mining Company
Mexicana de Cospeles, S.A. de C.V.
R. W. Miller (Holdings) Limited
Minera Anaconda Limitada
Montoro, Empresa Para La Industria Quimica Nacional de Cobre, S.A.
New Bingham Mary Mining Company
Nihon Oxirane Company, Ltd.
Nordisk Mineselskab A/S
P. T. Arutmin Indonesia
Park City Ventures

Atlantic Richfield Company (continued)

Park-Cummings Mining Company
Park-Premier Mining Company
Participaciones Mexicanas, S.A. de C.V.
Platte Pipe Line Company
Prince Consolidated Mining Company
Productos Especiales Metalicos, S.A.
Productos Laminados de Cobre, S.A. de C.V.
Richfield U.K. Petroleum, Limited
Rodman, Inc.
Saudi Cable Company
Servicios Industriales Nacobre, S.A.
Sinclair (U.K.) Oil Company Limited
Sinclair Venezuelan Oil Company
Smoke House Copper Mining Company
Sociedade Anonima Marvin
Solar Energy Center (E.C.)
Solvamex, S.A. de C.V.
Stup & Costello, Inc.
SUMIARCO Company Limited
Swecomex, S.A.
Tecumseh Pipe Line Company
Texas-New Mexico Pipe Line Company
Transcobre, S.A. de C.V.
Trans Mountain Oil Pipe Line Company
Tubos Flexibles, S.A.
Union de Credito Industrial Vallejo, S.A.
United Park City Mines Company
The Walworth Company
West Mayflower Mining Company
William Prym de Mexico, S.A.

BP Alaska Exploration, Inc.

The British Petroleum Company p.l.c.
BP International Limited
BP North America Inc.

Chevron U.S.A. Inc.

Atlas Supply Company
Canyon Reef Carriers, Inc.
Compania Commercial Chevron S.A.
Felix Oil Company
Kenai Pipe Line Company
Kentucky Agricultural Energy Corporation
Long Beach Oil Development Company
Plantation Pipe Line Company
Standard Pacific Gas Line Inc.

Cities Service Company

Cities Service Oil and Gas Corporation
Occidental Petroleum Investment Co.
Occidental Petroleum Corporation
Basin Ridge Coal Company

Conoco, Inc.

E.I. du Pont de Nemours & Co.
Juliana Mining Co.
Big Sky of Montana Realty, Inc.
Cit-Con Oil Corporation
Conch International Methane Ltd.
Condea Chemie GmbH
Condea Chimie S.a.r.l.
Du Pont Scandinavia AB
AB Branslecentralen

Conoco, Inc. (continued)

ARA Aktiebolag
ARA Bolagen AB
ARA Fotogenservice AB
ARA Gavle AB
ARA Jonkoping AB
ARA Norrkoping AB
Conara AB
Jet Trading AB
Svenska Kol ARA AB
Vaermecenter Sven Meijer Aktiebolag
Conch L.N.G.
K/S Statfjord Transport A.S. & Co.
Statfjord Transport A.S.
Conrhein Coal Co.
Cardinal River Coals, Ltd.
Neptune Bulk Terminals (Canada) Ltd.
Contochu Inc.
Harmar Coal Co.
Mathies Coal Co.
Vawn Pty. Ltd.
Tongue River Holdings, Inc.
Tongue River Railroad
Oasis Oil Co. of Libya, Inc.
Colonial Pipeline Company
Dixie Pipeline Company
Explorer Pipeline Company
Lake Charles Pipe Line Company
Pioneer Pipe Line Company
Platte Pipe Line Company
Seadock, Inc.
Seaway Pipeline, Inc.
Yellowstone Pipe Line Company
Felix Oil Company

Conoco, Inc. (continued)

Jupiter Chemical Inc.
Kettleman North Dome Assoc.
Long Beach Oil Development Company
Oberrheinische Mineraloelwerke GmbH
Petco Enterprises Ltd.
Petrocokes, Ltd.
Petroleum Terminals, Inc.
Iricon Agency, Ltd.
Southern Facilities, Inc.
The Standard Shale Products Company
Tidelands Royalty Trust
Associated Petroleum Terminals Ltd.
Benzene Marketing Co. Ltd.
Cliffe Storage Ltd.
Crude Oil Terminals (Humber) Ltd.
Humber Oil Terminals Trustee Ltd.
Petroleum Storage Ltd.
Warwickshire Oil Storage Ltd.
K/S Statfjord Transport A.S. & Co.
Statfjord Transport A.S.

Exxon Corporation

Abu Dhabi Company for Onshore Oil Operations
Abu Dhabi Petroleum Company Limited
Ace Polymer Co., Ltd.
Aditivos Orinoco, C.A.
Adria-Wien Pipeline Gesellschaft mit beschrankter Haftung
AFCO AB
Aishin Sekiyu K.K.
Aktiebolaget Svensk Petroleumadministration
Alberta Products Pipe Line Ltd.
Al-Jubail Petrochemical Company

Exxon Corporation (continued)

Altona Petrochemical Company Limited
Alyeska Pipeline Service Company
Andian National Corporation, Limited
Arabian American Oil Company
Aramco Overseas Company
Aramco Services Company
A/S Futurum
A/S Hydrantanlaegget Kobenhavns Lufthavn, Kastrup
Asakawa Sekiyu K.K.
Asociacion Civil "Academy La Castellana"
Atlas Supply Company
Atlas Supply Company of Canada Limited
Australian Synthetic Rubber Company Limited
Aviation Services Saudi Arabia Limited
Awaji Gas Nenryo Kabushiki Kaisha
Azuma Sekiyu K.K.
B.V. Autoservicebedrijf "de Beuk" Leimuiden
Bangkok Aviation Fuel Services Limited
Banshu Ekika Gas K.K.
Bayerische Erdgasleitung G.m.b.H.
BEB Gewerkschaften Brigitta und Elwerath Betriebsfuhrungsgesellschaft m.b.H.
Bel-Air Entreposage S.A.
Building Products of Canada Limited
Byron Creek Collieries (1983) Limited
Canada Wide Mines Ltd.
Carnduff Gas Limited
Castle Peak Power Company Limited
Champlain Oil Products Limited
Changi Airport Fuel Hydrant Installation Pte. Ltd.
Chuo Sekiyu Hanbai K.K.

Exxon Corporation (continued)

Cia Refinadora Petrolera Santo Domingo, Inc.
Colmant Cuvelier Dodge S.A.
Commercial Polymers Pty. Ltd.
Compagnie d'Etancheite Africaine en Cote d'Ivoire S.A.
Compania Minera Disputada de Las Condes S.A.
Comptoir Auxiliaire du Petrole
DFTG Deutsche Flussigerdgas Terminal GmbH
Daihatsu Sekiyu K.K.
Daiichi Kouyu K.K.
Daitsu Sangyo K.K.
Delta Rope & Twine Limited
Depot Petrolier du Gresivaudan
Depots de Petrole Cotiers
Depots Petrolier de la Corse
Det Gronlandske Olieaktieselskab
Deudan-Holding GmbH
Deutsche Erdgas Transport G.m.b.H.
Deutsche Transalpine Oelleitung G.m.b.H.
Devon Estates Limited
Dixie Pipeline Company
Dodge de Mexico S.A. de C.V.
Drivmedelscentralen Aktiebolag
Dukhan Service Company
E S F Limited
Eagle Kenso K.K.
East Japan Oil Development Company, Limited
East Texas Salt Water Disposal Company
Eiko Sekiyu K.K.
Ejendomsaktieselskabet af 12. juni 1964
Elwerath Erdol und Erdgas AG
Emirates Oilfield Chemicals Company
Emori Sekiyu K.K.

Exxon Corporation (continued)

Emsland-Erdolleitung G.m.b.H.
Entrepot Petrolier de l'Aveyron (E.P.A.)
Erdgas-Verkaufs-Gesellschaft m.b.H.
Escuela Las Morochas, C. A.
Esso Chimie
Esso Energie G.I.E.
Esso Exploration and Production Angola Inc.
Esso Italiana S.p.A.
Esso Malaysia Berhad
Esso of Canada Limited
Esso Resources Canada Limited
Esso Societe Anonyme Francaise
Esso Standard Tunisie S. A.
Exact Reisebyra A/S
Exxon Chemical Pakistan Limited
F. T. Giken Kabushiki Kaisha
Federal Pacific Electric de Mexico S.A. de C.V.
Federal Pioneer Limited
Ferngas Nordbayern G.m.b.H.
Ferngas Salzgitter GmbH
Forenade Svenska Oljeimportorers AB
Forjas de Colombia, S.A.
415572 Ontario Inc. (operating as Kentom Steel)
Fuji Kogyo K.K.
Fuji Unyu K.K.
Fukui Sekiyu K.K.
General Bussan K.K.
General Highway K.K.
General Petrochemical Industries Limited
General Sekiyu K.K.
General Sekiyu Okinawa Hanbai K.K.
General Sekiyu Overseas Ltd.
General Shipping Co. Ltd.

Exxon Corporation (continued)

General Unyu Kabushiki Kaisha
Geobutane - Lavera
Gewerkschaft Brigitta
Gewerkschaft Elwerath
Gewerkschaft Elwerath & Co. GmbH.
Gewerkschaft Erdol-Raffinerie Deurag-Nerag
Gilbarco do Brasil S. A. - Equipamentos
Goroku Sekiyu K.K.
Grande Ecaille Land Company, Inc.
Groupement Immobilier Petrolier
Groupement Petrolier Aviation
Groupement Petrolier du Finistere G.I.E.
Groupement pour l'Etude d'un Pipeline
Bordeaux Toulouse
Hankyu Ferry K.K.
Hannoversche Erdolleitung G.m.b.H.
Hanshin Kyowa Sekiyu K.K.
Hayakawa Seikiyu K.K.
Heinrich Schneider Spedition GmbH
Hiroshima General Gas Juten Kabushiki Kaisha
Hoei Sekiyu K.K.
Hokuyu Sekiyu K.K.
Houston Regional Monitoring Corporation
Hydranten-Betriebsgesellschaft
Hydrierwerke Poelitz Aktiengesellschaft
Immeuble Entretien Service I.E.S.
Imperial Oil Limited
The Imperial Pipe Line Company, Limited
Inada Ekka Gas Kabushiki Kaisha
Industrias Reliance S.A. de C.V.
Industry Promotion Enterprises Limited
Intecom, Inc.
Interface Mechanisms Inc.

Exxon Corporation (continued)

Internationale Gas Transport Maatschappij B. V.
Interprovincial Pipe Line (Alberta) Ltd.
Interprovincial Pipe Line Limited
Interprovincial Pipe Line (NW) Ltd.
Iranian Oil Participants Limited
Iranian Oil Service (Holdings) Limited
Iranian Oil Service Limited
Iraq Petroleum Company, Limited
Iraq Petroleum Pensions, Limited
Japan Butyl Company Limited
Japan Coal Liquefaction Development Company, Ltd.
Jersey Nuclear-Avco Isotopes, Inc.
K.K. Aizu General
K.K. Daimaru
K.K. General Sekiyu Hanbaisho
K.K. Genetech
K.K. Heian Sekiyu
K.K. Kanagawa Sekiyu Shokai
K.K. Kyoei Shosha
K.K. Kyowa Sekiyu Service
K.K. Marugo Izumasa Shoten
K.K. Niimi Kirun
K.K. Nippatsu
K.K. Standard Sekiyu Osaka Hatsubaisho
K.K. Toko
K.K. Toresen
K.K. Uwano Sekiyu Shokai
K/S ejendomsselskabet af 8 oktober 1967
K/S Hoje Taastrup Storcenter II
K/S Statfjord Transport A/S & Co.
Kabushiki Kaisha Sankyo Plastics
Kai Tak Refuellers Company Limited

Exxon Corporation (continued)

Kanto Kygnus Sekiyu Hambai K.K.
Karlsruhe-Stuttgart Rohrleitung Gesellschaft mbH
Kawasaki Kygnus Sekiyu Hambai Kabushiki Kaisha
Kawasaki Naiko Kabushiki Kaisha
Keihin Kygnus Kabushiki Kaisha
Keiyo Sekiyu Hanbai K.K.
Kenarin Agencies Ltd.
Kenya Petroleum Refineries Limited
Kepco Mfg. Inc.
Kibo Sekiyu Hanbai K.K.
Kinwa Sekiyu K.K.
Kobe Port Service Kabushiki Kaisha
Kobe Standard Sekiyu K.K.
Kowa Sekiyu K.K.
Kowloon Electricity Supply Company Limited
Kygnus Ekka Gas Kabushiki Kaisha
Kyngus Kosan Kabushiki Kaisha
Kygnus Marketing Service K.K.
Kyngus Sekiyu K.K.
Kyushu Eagle K.K.
LPL Investments, Inc.
La Compagnie Electrique Pioneer du Quebec, Inc.
Lakehead Pipe Line Company, Inc.
Laykold Corporation
LEAG Aktiengesellschaft fur luzernisches Erdol
Les Docks des Petroles d'Ambes
Les Restaurants Le Voyageur Inc.
Long Beach Oil Development Company
Magota Sekiyu K.K.
Mainline Pipelines Limited
Makoto Sekiyu Kabushiki Kaisha

Exxon Corporation (continued)

Maple Leaf Petroleum Limited
Maquinas de Coser y Bordar Sigma, S.A.
Mars-Alcatel, S.A.
Marugo Gas K.K.
MEGAL FINCO
MEGAL GmbH
Meiji Sekiyu K.K.
MESBIC Financial Corporation of Houston
Mikawa Bussan K.K.
Mittelrheinische Erdgas Transport Gesellschaft mit beschrankter Haftung
Montreal Pipe Line Limited/Les Pipe-Lines Montreal Limitee
NPC Services, Inc.
Nakabayashi Sekiyu K.K.
Nansei Oil Terminal K.K.
Nansei Sekiyu Kabushiki Kaisha
Native Venture Capital Co. Ltd.
Near East Development Corporation
Neptune Bulk Terminals (Canada) Ltd.
Niagara Structural Steel (St. Catharines) Limited
Nichimo Kabushiki Kaisha
Nichimo Oil (Bermuda) Co., Ltd.
Nichimo Sekiyu Seisei Kabushiki Kaisha
Nikko Sangyo K.K.
Nippon Unicar K.K.
Nisku Products Pipe Line Company Limited
Nissei Sekiyu Kabushiki Kaisha
Norddeutsche Erdgas-Aufbereitungs G.m.b.H.
Norddeutsche Mineraloelwerke Stettin G.m.b.H.
Norddeutsche Oelleitungs-gesellschaft m.b.H.

Exxon Corporation (continued)

Nordrheinische Erdgas Transport Gesellschaft mit beschrankter Haftung
Nord-West Oelleitung G.m.b.H.
Norforge Inc.
Norsteel Limited
Northern Steel Co. Ltd.
Northward Developments Ltd.
Northwest Company, Limited
Nottingham Gas Limited
Office Prive d'Assurances et de Courtages
Offshore Medical Support Limited
Oil Field Chemicals Company (Saudi Arabia) Ltd.
Oil Service Company of Iran
Oil Transport Company (Saudi Arabia) Limited
Oldenburgische Erdol Gesellschaft m.b.H.
Omnisport Australia International Pty. Ltd.
Omnisport B.V.
Omnisport International Inc.
Omnisport International (U.K.) Limited
Omnisport International (U.S.) Inc.
Omniturf Surfaces (N.A.) N.V.
107580 Canada Inc.
139675 Canada Limited
140129 Canada Limited
140233 Canada Limited
Osaka Propane Gas Hambai Kabushiki Kaisha
Osaka Sekiyu Gas Yuso K.K.
P. T. Stanvac Indonesia
Pars Investment Corporation
Peninsula Electric Power Company Limited
Petroleum Refineries (Australia) Proprietary Limited

Exxon Corporation (continued)

Petroleum Services (Middle East) Limited
Petroleum Tankship Company, Inc.
Petrosvibri S.A.
Photonic Automation Inc.
Pinpoint Retail Systems Inc.
Pipeline Service
Pipeline Service Iran
Pipeline Service U.K.
Pipe Line Services, Inc.
Plantation Pipe Line Company
Polder-Seehafen-Harburg GmbH
Portland Pipe Line Corporation
Potencia Industrial S.A.
Productos Lorain de Mexico S.A. de C.V.
Progas A/S
Raffinerie du Midi S.A.R.L.
Rainbow Pipe Line Company, Ltd.
Redwater Water Disposal Company Limited
Refineria Petrolera Acajutla S.A.
Reliance Electric & Engineering Company de Mexico S.A. de C.V.
Reliance Electric Limited
Reliance Electric S.A. (Spain)
Renix Co. Ltd.
Renown Building Materials Limited
Rheingas Erdgasleitungs-Gesellschaft m.b.H.
Rotterdam-Antwerpen Pijpleiding (Nederland) N.V.
Ruhrgas Aktiengesellschaft
S.A. du Pipeline a Produits Petroliers sur Territoire Genevois (SAPPRO)
S.O.P. - Societa Oleodotti Padani S. p. A.
Saitama Sekiyu Hanbai K.K.

Exxon Corporation (continued)

Sakurajima Futo K.K.
Sanko Oil Kabushiki Kaisha
Sanwa Kasei Kogyo Kabushiki Kaisha
Sanyo Sekiyu K.K.
Saraco S.A.
Saudi Arabian Lube Additives Company Limited
Schubert KG
SEAG Aktiengesellschaft fur schweizerisches Erdol
Sibu Kygnus Sekiyu Hambai Kabushiki Kaisha
Seismic Industries A/S
Self-Service de Blaak B.V.
Senpoku Oil Service K.K.
SERAM Societa per Azioni
Servacar Ltd.
Shehtah Drilling Limited
Shimoka Sekiyu Kabushiki Kaisha
Shimoyama Sekiyu K.K.
Shin-Nihon Yukagaku Kogyo K.K.
Shinohara Oil K.K.
Shizuoka Kanesho Hambai Kabushiki Kaisha
Smiley Gas Conservation Limited
Sociedad Anonima "Escuela Campo Alegre"
Sociedad de Inversiones de Aviacion
Sociedad Nacional de Oleoductos Ltda.
Societa Italiana per l'Oleodotto Transalpino S.p.A.
Societa per Azioni Raffineria Padana Olii Minerali-SARPOM
Societe Anonyme de la Raffinerie des Antilles
Societe Anonyme des Hydrocarbures
Societe Anonyme "Produits Lubrifiants de Madagascar" - PROLUMA S.A.

Exxon Corporation (continued)

Societe Civile de Mustapha Algerie
Societe Civile de Participation pour la Destruction des Dechets Industriels (SOCDI)
Societe Civile Immobiliere "Courcelles-Etoile"
Societe Civile Immobiliere de la Croix au Chene
Societe Civile Immobiliere du 195 Avenue de Neuilly
Societe Civile Immobiliere Khariessa
Societe Civile Immobiliere "Kleber-Etoile"
Societe Civile Immobiliere "Les Casseaux-Bougainville"
Societe de la Raffinerie d'Alger
Societe de la Reffinerie de Lorraine
Societe de Manutention de Carburants Aviation
Societe de Manutention de Carburants Aviation Dakar-Yoff, S.A.
Societe de Promotion et de Financement Touristique (CARTHAGO)
Societe d'Entreposage de San-Pedro
Societe des Pipe-Lines de Strasbourg
Societe des Transports Petroliers par Pipe Line
Societe d'Exploitation & de Developpement d'Operations Commerciales
Societe du Caoutchouc Butyl (SOCABU)
Societe du Depot Petrolier d'Hauconcourt
Societe du Parkins du Square Boucicaut
Societe du Pipe Line de la Raffinerie de Lorraine
Societe du Pipe-Line Mediterranee-Rhone
Societe du Pipeline Sud-Europeen
Societe Esso de Recherches et d'Exploitation Petrolieres Esso Rep
Societe "Geomines-Caen"

Exxon Corporation (continued)

Societe Havraise de Manutention de Produits Petroliers
Societe Hoteliere de la Petite Campagne
Societe Immobiliere Paris-Niel
Societe Ivoirienne d'Operations Petrolieres S.A.
Societe Malgache de Raffinage
Societe Reunionnaise d'Entreposage
Socony-Standard-Vacuum Oil Company (Petroleum Maatschappij)
Southern Natural Gas Development Pty. Ltd.
Standard Kosan Kabushiki Kaisha
Standard Service K.K.
Statfjord Transport A/S
Stockage Geologique de Gaz de Lavera
Suddeutsche Erdgas Transport Gesellschaft mit beschrankter Haftung
Suntech Company, Ltd.
Supertex, Inc.
Svensk Petroleumlagring Tre Aktiebolag
Sydis, Inc.
Syncrude Canada Ltd.
Synergistics Chemicals Limited
305120 Alberta Ltd.
346877 Ontario Limited
TAR-Tankanlage Rumlang AG
TBN Tanklager-Betriebsgesellschaft Nurnberg mbH
Taglu Enterprises Ltd.
Taihei Bussan K.K.
Taiko Sekiyu K.K.
Taisei Kogyo Sekiyu Hanbai K.K.
Taketsuru Yugyo K.K.
Tanaka Sekiyu Hanbai K.K.

Exxon Corporation (continued)

Tankanlage A. G., Mellingen
Tanklager Altishausen A. G.
Tanklager Gesellschaft
Tanklager-Gesellschaft Tegel
Tanklager Lechelles I S.A.
Tanklager Taegerschen AG
TecSyn International Inc.
Tecumseh Gas Storage Limited
THUMS Long Beach Company
Thyssengas G.m.b.H.
TIBA Speditions GmbH
Toa Nenryo Kogyo Kabushiki Kaisha
Tohko Plastics Company, Limited
Tokai General Sekiyu Hanbai K.K.
Toko Sekiyu K.K.
Toledo Scale Company de Mexico S.A. de C.V.
Toledo Werk GmbH
Tonen Energy International Corp.
Tonen Maintenance K.K.
Tonen Sekiyukagaku Kabushiki Kaisha
Tonen Tanker Kabushiki Kaisha
Tonen Technology K.K.
Towa Sekiyu K.K.
Toyoshina Film Company, Ltd.
Trans-Arabian Pipe Line Company
Transalpine Finance Holdings S.A.
Transalpine Oelleitung in Oesterreich
Gesellschaft m.b.H.
Transgaz Lavera
Tsurumaru Unyu K.K.
Turkish Petroleum Company, Limited
UBAG - Unterflurbetankungsanlage Flughafen
Zurich

Exxon Corporation (continued)

Ulupna Estates Limited
Van Salt Water Disposal Company
W.A.G. Pipeline Pty. Ltd.
W. H. Adam, Ltee, Ltd.
Wako Jushi Kabushiki Kaisha
Wako Kasei Kabushiki Kaisha
Westdeutsche Erdolleitungs-G.m.b.H.
Westgas G.m.b.H.
Williamsport Properties Limited
Winnipeg Pipe Line Company Limited
Wohnungsbaugesellschaft, Steimbke-Rodewald G.m.b.H.
Worex Distribution
Worex et Cie
Worex S.A.R.L.
Wrenford Insurance Company Ltd.
Yasaka Sekiyu K.K.
Yellowstone Pipe Line Company
Yoshimi Gas Kabushiki Kaisha
Yuai Sekiyu K.K.
Yugen Kaisha Nishi Kobe Bosai Center

Gulf Oil Corporation

Electronic Marketing Systems, Inc.
Componentes Industriales Mexicandes, S.A.
General Atomic Europe Develop. Corp.
Hochtemperatur-Reactorban GMBH
West Texas Gulf Pipeline Co.
Solvent Refined Coal International, Inc.
Emery Joint Venture
North River Energy Co.
Gulf Oil Zaire S.A.R.L.

Gulf Oil Corporation (continued)

Gulf Canada Ltd.
A/S Jargul
A/S Jargul & Co. K/S
Kuwait Oil Company Limited
Plastigama, S.A.
Sarlux Spa - Refining 579
Gulf Oil Financial Corporation
Gulf Oil Realty Co. 819
China Gulf Oil Co., Ltd.
Hong Kong Refueling Co. Ltd.
Insco, Ltd.
Insco Holding and Finance Company N.V.
Britamco Ltd.
Cayman Kewanee, Ltd.
Kayeye Insurance Company, Ltd.
Pembroke Cracking Company
Raffinerie de Cressier, S.A.
Keydril (Nigeria) Ltd.
Pembroke Capital Company
Oklahoma Nitrogen Company
Colonial Pipeline Co.
Rio Blanco Oil Shale Part.
Laurel Pipeline Company
Harshaw/Filtrol Partnership - H/FP 325-762
Chicago Wire Goods Co. - H/FP
G.S. Equipment & General Supply
Harshaw Chemie G.M.B.H. - H/FP
Harshaw Galvanotecnia S.A. - H/FP
Harshaw International Corp. - Disc.
Harshaw - Juarez S.A. De C.V. - H/FP
Harshaw-Murata Kabushiki Kaisha - H/FP
Harshaw Nuclear Electronics, Inc. - H/FP
Industrial Nickel, Inc. - H/FP

Gulf Oil Corporation (continued)

Lancer Chemical Corp. - H/FP
Harshaw Chemicals Limited - H/FP 381
Harshaw-Bryce & Co. Pty. Ltd. - H/FP
Harshaw Chemie B.V. - H/FP 549
Harshaw Holland N.V. - H/FP
Stibium, Inc. H/FP
Productos Quimicos Somox, Ltda - H/FP
Harshaw Chemical of Canada, Ltd. - H/FP
Valley Pines Associates
Allied General Nuclear Services
Explorer Pipeline Company
Midwest Carbide Corporation
Transocean Group Inc.
Transinsco Inc.
Bio Research Center

Hamilton Brothers Oil Company

Hamilton Oil Corporation
Hamilton Brothers Petroleum Corporation
Hamilton Brothers Oil and Gas Corporation
Hermes Consolidated, Inc.
Tejas Gas Corp.

Murphy Oil Corporation

Ozark Fuels Corporation
Butte Pipe Line Company
Collins Pipeline Company
T&M Terminal Company
Murphy Oil Company, Ltd.
Manito Pipe Lines, Ltd.
Murphy Finance International Inc.
Murphy Overseas Exploration Company

Murphy Oil Corporation (continued)

Murphy Overseas Finance Corporation
Ocean Drilling & Exploration Company
Odeco Towing Services Pty.
Ben Odeco (Bermuda) Limited
Australian Odeco Pty. Limited
Ben Odeco Limited
Sub Sea Offshore (B) Berhad
Strongwork Diving (Saudi Arabia) Ltd.
Sub Sea Dolphin A/S

Phillips Petroleum Company

Acurex Corporation
Aero Oil Company
Canada Western Cordage Company Limited
Cochin Refineries Limited
Industrias Negromex, S.A. de CV
Phillips Carbon Black Limited

Rowan Petroleum, Inc.

Rowan Companies, Inc.
Perforadora Guerrero Negro, S.A. de C.V. (Mexico)

Shell Oil Company

Shell Petroleum N.V.
Royal Dutch Petroleum Company
Shell Transport and Trading Company
George Newman & Company
Huntsman Chemicals, Inc.
United Scientific, Inc.
Quazite Corporation

Shell Oil Company (continued)

First Harlem Securities Corporation
Fractionation Research, Inc.
Gravcap, Inc.
Heat Transfer Research, Inc.
Inland Corporation
LOOP, Inc.
MESBIC Financial Corporation of Houston
Oil Companies Institute for Marine Pollution Compensation Limited
Oil Insurance Limited
Pioneer Equipment Co.
Seadock, Inc.
Pecten Cameroon Company
Thums Long Beach Company
East Texas Salt Water Disposal Company
Grande Ecallie Land Company, Inc.
Van Salt Water Disposal Company
Wyoming Industrial Development Corporation
Cortez Capital Corporation
Plastibeton, Inc.
Butte Pipe Line Company
Dixie Pipeline Company
Explorer Pipeline Company
Locap, Inc.
Olympic Pipe Line Company
Plantation Pipe Line Company
West Shore Pipe Line Company
Wolverine Pipe Line Company

Sohio Alaska Petroleum Co.

The Standard Oil Company

Texasgulf, Inc.

Elf Aquitaine, Inc.
Compania Exploradora del Istmo, S.A.
Societe National Elf Aquitaine, S.A.
St. Laurens Harbor Storage Company

Union Oil Company of California

Keneb Services, Inc.
Magma Power Company
Union Exploration Partners, Ltd.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Brief in Opposition of Respondents Amoco Production Company, *et al.* were mailed by first-class mail, postage paid, this 12th day of August, 1985, to:

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